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Attorney for Plaintiff

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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MORNING SUN BOOKS, INC.

Civil Action No. 11-0608 (CCC)

Plaintiff,

v.

DIVISION POINT MODELS, INC., et al,

Defendants.

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Answer

Defendant Uncle Dave's Brass Model Trains, by its attorney Jules D. Zalon,  
as and for its answer to the complaint filed herein, hereby respectfully:

1. Denies each and every allegation contained in ¶¶9, 24, 32-34, 36-39, 41, 44-46 and 48-51 of the complaint.
2. Denies knowledge or information sufficient to form a belief as to the allegations contained in ¶¶2, 12-21, 40 and 43 of the complaint and therefore denies the same.

3. Admits all allegations contained in ¶7 of the complaint, except denies specifically that it is a “distributor for Defendant Division Point,” as that allegation gives the wrongful impression that it is thereby an agent of Division Point. In fact, Uncle Dave’s is a retailer that merely sells products, some of which are acquired from Division Point.

Affirmative Defenses

4. Fair use, to the extent that it utilized any photographs copyrighted by plaintiff.

5. Plaintiff is not a proper party plaintiff to the false designation claim, since no one could possibly be confused into believing that the model trains that defendant sells emanate from, or are otherwise associated with, the plaintiff.

WHEREFORE, defendant Uncle Dave’s Brass Model Trains prays that this Court dismiss the complaint in its entirety; and grant such other and further relief as the Court deems just and proper.

Dated:        West Orange, New Jersey  
                July 8, 2011

s/ Jules D. Zalon,  
Attorney for Plaintiff

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Certificate of Service

The undersigned certifies that on July 8, 2011 a true and correct copy of the foregoing answer was filed electronically. Notice of this filing will be sent to all parties by operation of the Court’s electronic filing system. Parties may access this filing through the Court’s system.

Dated:        West Orange, New Jersey  
                July 8, 2011              s/ Jules D. Zalon, attorney for plaintiff